



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MTI/171610

PRELIMINARY RECITALS

Pursuant to a petition filed January 20, 2016, under Wis. Stat. § 49.85(4), and Wis. Stat. § 227.42, to review a decision by the Public Assistance Collection Unit in regard to Medical Assistance, a hearing was held on February 17, 2016, at New Richmond, Wisconsin.

The issue for determination is whether the department may intercept the petitioner's income tax refund to recover an alleged overpayment of medical assistance.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Public Assistance Collection Unit
PO Box 8938
Madison, WI 53708-8938

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of St. Croix County.
2. The petitioner moved out of Wisconsin from September 1, 2014, through April 30, 2015.

3. The petitioner was receiving medical assistance through Wisconsin when he moved out of state. He did not report that he had left, and the state continued to pay a total of \$2,450.76 in capitation fees for his medical assistance.
4. While in [REDACTED], the petitioner received medical assistance through that state.

DISCUSSION

The Department seeks to intercept the petitioner's income tax return to recover an overpayment of medical assistance it alleges occurred when he failed to report that he moved out of Wisconsin. He had begun receiving benefits through [REDACTED]. He contends that he did not know he was still getting benefits in Wisconsin because he was told that receiving benefits in [REDACTED] would cancel his Wisconsin benefits.

Medical assistance law allows the Department to recover medical assistance overpayments against any "recipient to whom or on whose behalf the incorrect payment was made." Wis. Stat. § 49.497(1)(b). The Department may intercept a recipient's state income tax refund to recover an overpayment of medical assistance. *See* § 49.85. The Department of Health Services must certify any amount of benefits it is entitled to recover to the Department of Revenue at least once a year. Wis. Stat. § 49.85(2)(a).

Failing to report any change that would affect eligibility is a basis for recovering an overpayment. Wis. Stat. § 49.497(1)(a)3. The petitioner had to report any change of circumstances that affected his benefits within 10 days. Wis. Stat. § 49.471(10)(b)3. When a recipient does not report a change that would make him ineligible, the state will make a capitation payment on his behalf. This payment is a benefit he is not entitled to because it allows him to be eligible for medical care, just as one who pays an insurance premium is eligible for such care. It does not matter if the person does not actually receive medical care in that month. If the payment is incorrectly made, and the Department may recover it.

I don't know if the petitioner was actually told that receiving benefits in [REDACTED] would end his benefits in Wisconsin, although I understand why he would believe this. Financial systems are increasingly connected by computers. It is plausible that such a computer network would connect the various state social services systems throughout the country to prevent someone from receiving duplicate benefits. But I am not aware of any such system, which means it is up to the recipients to ensure that they are only receiving benefits from one state at a time. Although the petitioner may have continued to receive benefits from Wisconsin because of a misunderstanding on his part, he still must repay the benefits he received that he was not entitled to. And the Department may intercept his tax refund to recover that overpayment.

CONCLUSIONS OF LAW

The Department may intercept the petitioner's state tax refund to recover an overpayment of medical assistance that occurred when he received those benefits through two different states at the same time.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 21st day of March, 2016

\sMichael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 21, 2016.

Public Assistance Collection Unit
Public Assistance Collection Unit
Division of Health Care Access and Accountability